



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ४, अंक २४(३)]

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असाधारण क्रमांक ५७

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the *Shree Karveer Niwasini Mahalaxmi (Ambabai) Mandir (Kolhapur) Bill, 2018* (L.A. Bill No. XXXIII of 2018), introduced in the Maharashtra Legislative Assembly on the 27th March 2018, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XXXIII OF 2018.

A BILL

to provide for better management in the Shree Karveer Niwasini Temple, Kolhapur and to make better provisions therefor and the abolition of all the hereditary rights, privileges of priest functioning in the said Temple and for the acquisition of such rights and privileges and for the vesting thereof in the Committee established for the purpose; for providing for better administration and governance of the said Temple and for matters connected therewith and incidental thereto.

WHEREAS there are certain Temples or religious institutions or endowments created for a public religious or charitable purpose, which vest in, or the management of which vests in, the State Government and which are registered as, or declared to be public Trust by notification issued in exercise of the powers conferred by sub-section (2) of section 56C of the Maharashtra Public Trusts Act in the Kolhapur, Sangli, Sindhudurg and Palghar districts of the State of Maharashtra and their management

(१)

were transferred by the State Government under section 56D of the said Act to the *Devasthan* Management Committee, Western Maharashtra, Kolhapur, established under sections 56E, 56F and 56I of the said Act; and the *Shree Karveer Nivasini* Temple is one of such Temple and included in the said notification;

AND WHEREAS various issues are raised in the Maharashtra Legislative Assembly regarding the mismanagement in the said Temple and complaints are received by the State Government regarding activities of *Shripujak* and the rights and privileges of *Shripujak's* in the said Temple;

AND WHEREAS it is expedient to provide for better management in the *Shree Karveer Nivasini* Temple, Kolhapur and to make better provisions therefor;

AND WHEREAS, after considering the views expressed in the State Legislature, the State Government is of opinion that the steps should be taken forthwith to enact a law for that purpose; and also to abolish all the hereditary rights and privileges of *Shripujak's* or any person performing *nitya* or daily or occasional *pujas* in the said Temple; and to provide for the acquisition and vesting of such rights and privileges in the Committee; and for the payment of amounts as compensation for the acquisition of such rights and privileges; and for appropriation of the income accruing from the offerings, *Dakshina*, donations or gifts made to the idols or deities in the Temple or made for the purpose of development and management of the Temple or any property thereof, with a view to increase the better utilization of the same for the purpose of the Temple, and of the idols of deities therein of and for the matters connected therewith or incidental thereto;

AND WHEREAS it is expedient to make a law for the purposes aforesaid; it is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title and commencement. 1. (1) This Act may be called the *Shree Karveer Niwasini Mahalaxmi (Ambabai) Mandir (Kolhapur) Act, 2018*.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires, —

(1) “appointed day” means the date specified in the notification issued under sub-section (2) of section 1;

(2) “*Devasthan* Management Committee” means the *Devasthan* Management Committee, Western Maharashtra Kolhapur established under sections 56E, 56F and 56I of the Maharashtra Public Trusts Act;

(3) “Committee” or “Management Committee” means the Management Committee appointed under section 8;

(4) “District Court” means the District Court at Kolhapur;

(5) “Executive Officer” means the Executive Officer of the Committee appointed under section 21 ;

(6) “Member” means a member of the Committee, and includes any office – bearers thereof whether called as, the Chairman, Vice-Chairman and Treasurer or by any other designation;

(7) "Management Fund" means the management fund constituted under section 30 ;

(8) "prescribed" means prescribed by rules made by the State Government under this Act ;

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(9) "public Trust" means a public trust registered under the provisions of the Maharashtra Public Trusts Act ;

(10) "regulations" means the regulations made by the Committee under section 52 ;

(11) "rules" means the rules made under this Act;

(12) "*Shripujak*", in relation to severs or services performed in the Temple, means the persons known as pujari or service providers, by whatever name or designation known or called and traditionally performing and rendering any or all kinds of religious services in the *Shree Karveer Niwasini Mahalaxmi (Ambabai)* Temple on the date of commencement of this Act ;

(13) "Temple" means the *Shree Karveer Niwasini Mahalaxmi (Ambabai)* Temple at Kolhapur;

(14) "Trust" means the public trust as constituted under sub-section (1) of section 3;

(15) "Trust Fund" means the fund of the Temple Trust or religious institution constituted under section 28;

(16) "year" means the financial year; and

(17) words and expressions used in this Act but not defined shall have the meanings respectively assigned to them in the Maharashtra Public Trusts Act.

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CHAPTER II

RECONSTITUTION AND TRANSFER OF PROPERTY OF THE RELIGIOUS INSTITUTION

3. (1) On and with effect from the appointed day, the public trusts registered under the Maharashtra Public Trust Act, by the name *Shree Karveer Niwasini*, at Karveer with number A-1493, which vest in, and the management of which vests in, the State Government, shall be deemed to be reconstituted under this Act as a public trust by the name of '*Shree Karveer Niwasini Mahalaxmi (Ambabai)* Temple Trust, Kolhapur'.

Reconstitution of Trust or religious institution and transfer to and vesting of properties.

(2) On the appointed day, all the properties, whether movable or immovable (including all assets, rights, funds, liabilities and obligations) of the erstwhile public Trust (hereinafter referred to as the "Temple Trust") shall, by virtue of, and in accordance with, the provisions of this Act, stand transferred to, and vested in the management committee or the purposes of the Temple Trust so reconstituted under sub-section (1) and the Executive Officer shall, on behalf of the Committee, be entitled to their possession and management from that day.

(3) The Committee or *Devasthan* Management Committee functioning in relation to the Temple Trust immediately before the appointed day shall cease to function; and all its powers, duties, rights and privileges, if any, in relation to the Temple Trust shall vest in the Management Committee.

Transfer of
possession of
valuables and
properties to
Trust.

4. (1) The *Devasthan* Management Committee and every other person in possession of,—

(a) any movable or immovable property of the erstwhile Trust; or

(b) the valuable articles, and the money including the money in the form of deposits in bank or in credit society or with any person or investment in shares, belonging to the Temple Trust,

shall hand over possession thereof, or transfer or cause to be transferred, forthwith, or within such longer period not exceeding thirty days, as may be allowed by the Management Committee, along with full inventory thereof, to the Executive Officer on behalf of the Management Committee.

(2) There shall be a separate committee headed by Additional Collector, Kolhapur District consisting of the Superintendent of Land Records, Joint District Registrar (Stamps and Registration), Sub-Divisional Officer of Kolhapur District and the Executive Officer as the *ex officio* Secretary of the committee. Such committee shall prepare the report of the inventory of the immovable property of the erstwhile Trust, in the format given by the State Government with the relevant documents. The *Devasthan* Management Committee shall provide all the relevant documents under their control to such committee.

Such committee shall submit its report to the State Government and the Management Committee of *Shree Karveer Niwasini Mahalaxmi (Ambabai)* Temple. The Management Committee shall take necessary action in respect of the immovable property held by the Trust. Upon submission of such report by the such committee, the State Government shall issue necessary orders for the management of the immovable property.

(3) Where any property is handed over or transferred under sub-section (1), the Executive Officer shall, after due verification with the inventory, pass a proper receipt in writing for the same to the transferor and thereupon, the Executive Officer shall be responsible for the safe custody of such property thereafter.

(4) On so handing over or transferring any such property of the erstwhile Temple Trust to the Executive Officer and obtaining a receipt thereof under sub-section (2), the transfer or shall stand released and discharged from all claims and demands or liability in respect of that property.

(5) Immovable property held by the Temple Trust shall not be sold without public auction and without prior permission of the Government in Law and Judiciary Department and while granting permission, the Government shall ensure that the offset price of such immovable property shall not be less than the market value of such property as per the rates fixed under the Annual Statement of rates fixed under the Maharashtra (Determination of market value) Rules, 1995 or any other law for the time being in force:

Provided that, the person who has vested interest in the immovable property at the time of public auction shall have the first right to purchase the said immovable property at the highest bid price accepted at such auction.

(6) No instrument alienating the immovable property of the Temple Trust without following the procedure mentioned in this section shall be valid.

5. (1) With effect from the appointed day, notwithstanding anything contained in any compromise or agreement entered into or scheme, or *farman*, or *sanad* or grant or order of any ruling authority for the time being or judgment, decree or order of any Court, Tribunal or other authorities passed prior to and in force on the aforesaid day,—

Abolition of customary or hereditary rights of *Shripujak's*.

(a) all rights, whether customary or hereditary, contractual or otherwise, or privileges of a person or Committee holding any office of the *Shripujaks* or any other office or service or post by whatever name called or of whatever nature they may be, in performing puja, archana, upchars of any kind whatsoever, in the Temple shall, stand abolished ;

(b) any usage or practice relating to the succession to any office or service or post mentioned in clause (a) shall be void ;

(c) all rights and emoluments of any nature in cash or kind or both accrued to and appertaining to any office or service or post mentioned in clause (a) and subsisting on the appointed day, shall stand extinguished.

6. Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority or in any scheme, custom, usage, agreement, instrument or in any manual prepared by the Temple Trust or *Devasthan* Management Committee or in any *farman* or *sanad* or any deed, grant or order of the Government or any other authority for the time being governing the Temple,—

Abolition of shares in *Hundi*.

(a) any share which is payable or being paid or given or allowed to be collected in the offerings made before the deity including the offerings on the brass threshold and the offerings made before the deity in the *Palakhi* or Chariot,—

(i) to or by any person, by whatever name or designation known or called in relation to the temple.

(ii) to or by any office-holder or servant or *sevekari*;

(b) share or shares in the offerings made or offered either in kind or in cash or both by the devotees either in *Hundi*, Plate or on the brass threshold in the temple or the offerings made before the deity in the *Palakhi* or Chariot, and

(c) all shares in the lands or any property movable or immovable of the temple trust allotted to be in possession and enjoyment of any such person or officeholder or servant or *sevekari* towards remuneration or otherwise for rendering service or *seva* or for defraying any other expenses connected with the service or management of the temple shall stand abolished on and from the date of commencement of this Act.

7. (1) Any person whose customary or hereditary rights or share or shares have been abolished under section 5 or 6, as the case may be, may, within ninety days from the appointed day, apply to the District Court for adjudication of the amount of compensation payable to him as a result of such abolition of his rights, share or shares ; and such application shall be accompanied by a fee proportionate to 1/30 part of claimed amount subject to maximum of rupees ten lakhs; by stating the nature of his right and privilege, the grounds of his claim, the extent of his share in the amount, the document, if any, evidencing such share and the names of persons who are co-sharers.

Application for compensation on abolition of rights or shares to Tribunal.

(2) The District Court shall hold an inquiry, and if the District Court is satisfied that the applicant has established his claim to any right or privileges, the District Court shall make an order specifying the amount payable to the applicant. Where there are co-sharers claiming the amount, the District Court shall apportion the amount between the co-sharers.

(3) In determining the amount of compensation, the District Court may take into consideration the provisions of the scheme made by any court for the administration of any Temple, and the decisions of the competent courts recorded before the appointed day in relation to the customary hereditary rights and privileges of persons having any interest in the income from the Trust; but in no case shall the amount determined exceed two and half times the average annual income such aggrieved person was receiving or collecting.

Explanation.—Average income shall be determined on the basis of last ten years income before the appointed day. If the aggrieved person's average annual income, so determined, was rupees one thousand, the compensation shall in no case exceed rupees two thousand five hundred.

(4) The District Court shall not take into consideration any income alleged to be derived by any person having interest in respect of which such person has not kept any account before the appointed day unless the District Court on evidence adduced before it, is satisfied about the amount of income lawfully derived by him from his customary, hereditary right and privilege abolished and acquired.

(5) In determining the amount of compensation, the District Court shall have regard to the following factors:—

(a) the deity is a juristic person and any offering, gift or donation to the deity is, in law, the property of the deity ;

(b) the application or claimant or his predecessor has appropriated the offerings, share or income over a period of time and thus accumulated a corpus ;

(c) such accumulated corpus or its part also had yielded or potential to yield monetary returns ;

(d) the compensation is to be paid from trust fund, the primary source of which is the property of deity ;

(e) the trust fund is to be utilized for the administration and management of the temple trust, and

(f) therefore, the compensation ordered to be paid shall not be excessive exorbitant and onerous to the temple trust.

(6) Every order made by the District Court shall be in writing signed by Judge, and shall specify the amount of compensation if any, ordered to be given together with reasons for giving the said amount, or rejecting the claim, as the case may be.

(7) Every such order shall be deemed to be a decree and the Statement of the reasons of every such order, a judgment within the meaning of clause (2) of section 2, and clause (9) of section 2, respectively, of the Code of Civil Procedure, 1908.

(8) Every such order shall also state the amount of costs incurred in the proceedings under this chapter and by what persons and in what proportions they are to be paid.

(9) An appeal shall lie to the High Court against any decision of the District Court under this Act as if such decision was a decree from which an appeal ordinarily lies.

(10) On making such order under this section, the Executive Officer shall, out of the Trust Fund, tender the payment of the amount as ordered by the District Court to the person entitled thereto according to the order and shall pay it to them :

Provided that, if they shall not consent to receive it, or if there be any dispute as to the eligibility of any person to receive the amount or as to the apportionment of it, such amount shall be deposited in the District Court:

Provided further that, nothing herein contained shall affect the liability of any person who may receive the whole or any part of any amount under this Act to pay the same to the person lawfully entitled thereto.

(11) When any amount shall have been deposited in the District Court under this Act, the District Court may, on the application of any party interested or claiming an interest in such amount, order the same to be invested in such Government or other approved securities as it may think fit and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider and shall give the parties interested therein the same benefit therefrom as they might have had if they themselves had invested the same.

(12) When the amount is not paid or deposited, as provided above, the Executive Officer shall pay the amount ordered by the District Court, with interest thereon at the rate of four per cent per annum from the date of expiry of thirty days from the date of the order until it shall have been so paid or deposited.

(13) No suit or proceeding shall lie to any other court in respect of the matters covered under this section.

CHAPTER III

MANAGEMENT COMMITTEE

8. (1) For the purpose of management of the Temple Trust, on or after the appointed day, a Committee to be called “*Shree Ambabai Temple Management Committee*” shall be constituted by the State Government as provided in sub-section (2).

Constitution of Management Committee for Temple Trust.

(2) The State Government shall, by notification in the *Official Gazette*, appoint a Chairman, Vice-Chairman, Treasurer and not more than eight members to constitute the Committee as envisaged under sub-section (1):

Provided that, out of the total number of members not less than one member shall be a woman and at least two members, of whom one shall be a person belonging to the Scheduled Castes and one to the Scheduled Tribes, shall be appointed from amongst the persons ordinarily residing in the State.

(3) The Mayor of the Municipal Corporation for the City of Kolhapur shall be the *ex officio* member of the Committee.

(4) Until the Committee is duly constituted under sub-section (1), the State Government may, by notification in the *Official Gazette* appoint a temporary committee for the purposes of this Act, consisting of two or more persons appointed by the State Government in this behalf ; and one of them may be appointed as the Chairman thereof.

Upon the constitution of the Committee under sub-section (1), the members constituting the temporary Committee shall vacate their office and the temporary Committee shall cease to exercise any powers or duties under this Act and shall hand over all the property vested in it, and the management of the endowment and Temple Trust to the Committee duly constituted under sub-section (1).

(5) Subject to the other provisions of this Act, the Committee shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.

Term of office of member. 9. (1) A Chairman, Vice-Chairman or member shall be appointed for a period of three years :

Provided that, the term of office of such out going members shall be deemed to extend to and expire with, the date on which the notification constituting the new Committee is published in the *Official Gazette*.

(2) A member may, by writing under his hand addressed to the State Government and a copy to the Chairman, resign his membership :

Provided that, such resignation shall not take effect until it is accepted by the State Government.

(3) If a member without obtaining leave from the Committee, remains absent for the three consecutive meetings of the Committee, he shall cease to be a member thereof, from the time the third meeting is duly terminated.

Qualifications for being member. 10. (1) A person to be appointed as a member of the Committee shall be,—

(a) the permanent resident of the State of Maharashtra ; and

(b) a devotee, of *Shree Karveer Nivasini, Mahalaxmi (Ambabai)*, Kolhapur. He shall, prior to his appointment as a member, make such declaration in the prescribed form.

(2) The Chairman, Vice-Chairman, Treasurer and other members shall, unless otherwise disqualified, be eligible for re-appointment.

Disqualifications. 11. A person shall be disqualified for appointment as, or for being, a member, if he,—

(a) is not qualified under sub-section (1) of section 10 ;

(b) is a minor ;

(c) is of unsound mind, and is so declared by a competent court ;

(d) is an undischarged insolvent ;

(e) has directly or indirectly any interest in a lease or any other transaction relating to the immovable property of the Temple or unlawfully held the property of the Temple ;

(f) has been convicted by a criminal court of any offence involving moral turpitude ;

(g) has, without obtaining leave of absence from the Committee, remained absent, —

(i) for three consecutive meetings of the Committee ;

(ii) from India for a continuous period of six months ;

(h) is a paid servant of the Committee or has any share or interest directly or indirectly in any contract for the supply of the goods to or for execution of any work, or the performance of any service, undertaken by the Committee in respect of the Temple Trust ;

(i) has been found guilty of grave misconduct in the discharge of his duties or being guilty of corruption or any disgraceful conduct while holding the office of the member of the Committee;

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(j) has been suspended, removed or dismissed as a Trustee of any public Trust, under section 41-D or any other provisions of the Maharashtra Public Trusts Act by the Charity Commissioner or Court ;

(k) is practicing as a Legal Practitioner for or against the Temple Trust;

(l) has left India for the purpose of residing abroad.

12. (1) The State Government may remove from office, the Chairman, Vice-Chairman, Treasurer or any other member of the Committee, on any of the following grounds, namely,—

Removal of
members.

(a) that a member has incurred any of the disqualifications mentioned in section 11 ;

(b) that in the opinion of the State Government, the standard of performance of such person is not found to be satisfactory or not upto the expected performance.

(2) No person shall be removed under this section unless he has been given a reasonable opportunity of showing cause, in writing, in the matter against his removal.

(3) The decision of the State Government in this behalf shall be final.

13. Notwithstanding anything contained in the foregoing provisions or any other provisions of this Act, the State Government may, by notification in the *Official Gazette*, curtail the term of office of the Chairman, Vice-Chairman, Treasurer or all or any of the other members holding office for the time being and appoint a new Chairman, Vice-Chairman, Treasurer and other members either for the remainder of the term or for a full term of three years, as the State Government may deem fit.

Power to
reconstitute
Committee.

14. In the event of any vacancy occurring on account of death, resignation, disqualification or removal of a member or on account of non-acceptance of office by the member or where the appointment is set aside, or on account of a member becoming incapable of acting prior to the expiry of his term of office, or desiring to be relieved or discharged or refusing to act or neglects to perform his duties as such member, the Executive Officer shall forthwith communicate the occurrence of the event to the State Government through the Management Committee; and the vacancy shall be filled in as soon as conveniently may be, by appointment of a person thereto and the member so appointed shall hold office so long only as the member in whose place he is appointed would have held it, if the vacancy had not occurred.

Filling up of
casual
vacancy.

CHAPTER IV

CONDUCT OF BUSINESS

Meeting of
Committee,
rules of
procedure at
its meeting.

15. (1) For the transaction of its business, the Management Committee shall meet at such interval as it may determine, from time to time, so however, that not more than thirty days shall elapse between the two meetings.

(2) One-half of the number of members of a Committee shall form a quorum :

Provided that, when a quorum is required but not present, the presiding authority shall adjourn the meeting for thirty minutes and the business which would have been brought before the original meeting had there been a quorum thereat, shall be brought before the adjourned meeting, whether there be a quorum present or not.

(3) Every meeting of the Committee shall be presided over by the Chairman and in his absence by the Vice-Chairman and in their absence, by a member elected for the purpose by the members present.

(4) All questions arising at the meeting of the Committee shall be determined by the majority of votes of the members present. In the case of equality of votes, the Chairman or the person presiding, as the case may be, shall have a right to exercise a casting vote:

Provided that, the Chairman of the meeting shall have a power to cast his first vote in his capacity of a member and thereafter have a second vote in his capacity as a Chairman.

(5) The Executive Officer, being the *ex officio* Secretary of the Committee, shall be responsible for the maintenance of the minutes of the proceedings of every meeting, and such minutes shall be duly countersigned by the Chairman or by the member presiding at the meeting, as the case may be.

(6) Consistent with the provisions of this Act and the rules made thereunder, the Committee shall make regulations, with the approval of the State Government for regulating its procedure and the conduct of its business.

Honorarium
of members.

16. (1) There shall be paid to each member such honorarium, and a traveling allowance and daily allowance for attending the meetings of the Committee or for transacting any business connected with duties as a Chairman or member to the place where such meeting are held or business is transacted and for the return journey from such place at such rates, as may be prescribed.

(2) Notwithstanding anything contained in any other law for the time being in force a member of the State Legislature while holding the office of a member of the Committee who is eligible for any allowance or honorarium under sub-section (1) shall not be disqualified for continuing as a member of the State Legislature.

Defect or
vacancy not
to invalidate
acts.

17. No act or proceedings of the Committee or of any person acting as the Chairman or a member of the Committee shall be deemed to be invalid by reason only of the existence of a vacancy amongst its members or a defect in the constitution thereof or on the ground that the Chairman or any member of the Committee was not entitled to vote or to continue in office by reason of any disqualification or by reason of any irregularity or illegality in his appointment.

18. (1) Subject to any general or special order of the State Government, it shall be the duty of the Committee,— Duties and powers of Committee.

(a) to manage the properties and affairs of the Trust efficiently;

(b) to make proper arrangement for the conduct and performance of rituals, worship, ceremonies and festivals in the Temple according to the custom and usages;

(c) to provide necessary facilities and amenities to the devotees;

(d) to apply the income of the Temple Trust to the objects and purposes for which the Temple Trust is constituted and administered or on the other objects or purposes akin to the purposes of the Temple Trust or on the purposes allowed by or under this Act;

(e) to ensure due and proper continuance and performance of worship, rituals, ceremonies or services of the nitya or daily or periodical, general or special in the Temple without any break or hindrance or without in any way curtailing the form, dignity, grandeur or manner of pooja, archana, religious faith, or belief which were being performed in relation to the deity in the Temple Trust immediately before the appointed day; taking particular care to ensure that, as far as possible, darshan, etc. of the deities or prayer or worship in the Temple Trust is available to the devotees; appointing person or persons, on payment of such remuneration, and subject to such terms and conditions, for performance of any seva or service in the Temple, as the Committee may, in the interest of the better management of the Temple, determine;

(f) with the previous sanction of the State Government, to acquire or purchase land or buildings required for the purpose of development and carrying out schemes of the Temple Trust and to carry out the objectives or purposes of the Trust:

Provided that, before acquiring or purchasing any land or building, a certificate from the Government Approved Valuer shall be obtained by the Committee ;

(g) to expand the library of the literature of the *Shree Karveer Niwasini Mahalaxmi (Ambabai) Devi*;

(h) to collect the daily offerings, received either in cash or kind including dakshina, bhog, donation, subscriptions and the like in the Temple Trust or within the precincts thereof, to the exclusion of any other person, and to ensure the safe-custody of the all valuable securities, jewelleries, ornaments and all other offerings so collected :

Provided that, the cash, offerings received in cash Box, Hundi or otherwise shall be counted in the presence of the Assistant Charity Commissioner, Kolhapur or his representative ; and where offerings received are in kind, the Committee shall cause the valuation thereof to be determined by the Government Approved Valuer ;

(i) in respect of Temple Trust under its control credit to the Trust fund the cash, offerings so received and where the offerings received in kind are sold, the proceeds thereof, received by the Committee ;

(j) generally do all such acts as may be incidental, conducive or necessary for the purposes of proper and efficient management, maintenance and administration of the properties and affairs of the Temple Trust ; and to charge such fees for providing services through its *sevekaris* as the Committee may from time to time, determine.

(2) (a) No immovable property vested in the Temple Trust shall be leased for more than a year, or mortgaged, sold or otherwise alienated, by the Committee except with the previous sanction, in writing, of the State Government.

(b) No jewellery, ornament or other valuable movable property vested in the Temple Trust, the value of which is more than fifty thousand rupees, shall be sold, pledged or otherwise alienated by the Committee, except with the previous sanction, in writing, of the State Government.

(c) The Committee shall have no power to borrow money from any person or party, except with the previous sanction, in writing, of the State Government.

(d) Subject to the prior approval of the State Government, the Committee shall have all the powers not otherwise specifically provided under this Act, but are necessary for performing its duties and functions under this Act.

Power of
Committee to
grant licence.

19. (1) Any person who desires to sell flowers, prasad, books and other literature, pictures and any other material approved by the Committee or to look after cars and other vehicles, bicycles, shoes, umbrellas or other personal effects within and on the precincts of the premises of the Temple Trust shall apply to the Committee for grant of a licence or renewal thereof in such manner and within such period as may be provided by regulations.

(2) Every such application shall be accompanied by such fee as the Committee may specify in this behalf by regulations.

(3) The Committee may grant or renew the licence or for reasons to be recorded in writing refuse to grant or renew the licence.

(4) All the licences granted or renewed under this section shall be subject to the provisions of this Act and the rules and regulations made thereunder.

(5) The existing sellers on the appointed day may apply for the license in the manner as may be laid down by regulations.

Power to
cancel or
suspend
licence.

20. (1) Subject to the provisions of sub-section (2), the Committee may, for reasons to be recorded in writing, suspend or cancel a licence,—

(a) if the licence has been obtained through wilful misrepresentation or fraud;

(b) if the licensee or any servant or any person acting on his behalf with his express or implied permission, commits a breach of any of the terms and conditions of the licence ;

(c) if the licensee has become an insolvent ; or

(d) if the licensee is convicted of any offence under this Act or any other offence involving moral turpitude.

(2) No licence shall be suspended or cancelled under this section unless a reasonable opportunity to show cause against such suspension or cancellation has been given to such licensee.

CHAPTER V

EXECUTIVE OFFICER AND OTHER EMPLOYEES

21. (1) The State Government shall appoint a person to be the Executive Officer from amongst the officers not below the rank of the Deputy Collector, for the purposes of this Act. He shall hold the office ordinarily for a period of three years from the date of his appointment unless his term of office is determined earlier by the State Government by an order issued in this behalf :

Appointment of Executive Officer and other officers of Committee.

Provided that, the person working as the Secretary of the *Devasthan* Management Committee, immediately before the date of commencement of this Act shall also work as the Executive Officer of the Temple Trust, till the appointment of the Executive Officer by the State Government under this sub-section, and he shall exercise the powers and duties of the Executive Officer under this Act but shall not be entitled to any salary or payment on this count.

(2) When a temporary vacancy occurs in the office of the Executive Officer, by reason of sickness or leave or any other reason, the State Government shall fill up the vacancy by appointing an officer from amongst the officers not below the rank of Deputy Collector for the period of absence of the Executive Officer.

(3) He shall be the *ex-officio* Secretary of the Management Committee.

(4) Other officers and employees of the Committee shall be appointed on such terms and conditions of services as may be determined by regulations duly approved by the State Government.

(5) The Executive Officer shall, as soon as may be, after the appointed day, as the case may be, prepare and submit a schedule setting forth therein the duties, designation and grades of officers, employees and the particulars relating to the salaries and allowances or honorariums payable to them to the State Government through the Management Committee for the approval. Such schedule shall come into force on approval of the State Government. No change shall be made in such schedule without the sanction of the State Government:

Provided that, no officer or employee, who is paid or is to be paid a salary of more than three thousand rupees per month, shall be appointed by the Committee, without the previous approval of the State Government.

(6) The salary and allowances and other expenses of the Executive Officer and other officers and employees of the Committee shall be paid out of the Management Fund.

22. (1) The Executive Officer shall, subject to the superintendence, direction and control of the Committee, have power to carry out its decisions and orders in accordance with the provisions of this Act and the rules and regulations made thereunder.

Powers and duties of Executive Officer.

(2) Notwithstanding anything contained in sub-section (1), the Executive Officer shall be responsible for the custody of all records and properties of the Temple Trust and shall make proper arrangement for collection of offerings, *dakshina*, *bhogs* or *bhets* and the like, whether in cash or kind, made in the Temple Trust and he shall have power,—

(a) to take disciplinary action against any officer or employee of the Committee ;

(b) to propose the suspension of any officer or employee of the Committee to the Committee ;

(c) to grant lease of the lands and buildings which are ordinarily leased out for a period not exceeding one year at a time ;

(d) to call for tenders for works or for supplies, and accept such tender, when the amount or value thereof does not exceed fifty thousand rupees:

Provided that, the exercise of powers under clauses (a), (b) and (c) shall be subject to the directions, if any, of the Committee, issued either generally or specially in that behalf ;

(e) to decide disputes between employees of the Committee ;

(f) to dispose of perishable offerings by auction or otherwise and credit the sale proceeds to the Trust Fund ;

(g) to undertake urgent repairs required for safety or convenience of the devotees ;

(h) to do all other acts and things, including grant of licences, which he is empowered to do by the Committee or under the regulations.

(3) The other officers and employees of the Committee shall exercise such powers and perform such duties and functions as are assigned to them by the Committee or the Executive Officer or under the regulations made, from time to time.

Emergency
power of
Executive
Officer.

23. The Executive Officer may, in case of emergency, direct execution of any work or the doing of any act, involving expenditure not exceeding rupees one lakh which is not provided for in the budget for the year and the immediate execution or the doing of which is in his opinion necessary for the preservation of the properties of the Temple Trust or the services or safety of the pilgrims resorting to the Temple and may also direct that such expenses not exceeding one lakh rupees for executing such work or doing of such act, shall be paid from the Trust Fund.

Terms and
conditions of
service of
Executive
Officer, other
officers and
employees.

24. (1) The Executive Officer shall be the servant of the State Government, but he shall draw his salary and allowances directly from the Management Fund ; and his conditions of service on deputation to the Committee shall be such as may be determined by the State Government.

(2) The terms and conditions of service, qualifications, method of recruitment, their duties and functions, pay, allowances, honorarium, discipline and conduct of the other officers, servants, employees of the Committee, shall be such as may be determined by the Committee with the approval of the State Government; and as far as may be practicable, but subject to the provisions of this Act, they shall not be inferior to the existing conditions of service. Their pay and allowances shall be paid from the Management Fund.

(3) There shall be paid every year out of the Management Fund to the State Government such costs or amount as the State Government may determine on account of pension, leave and allowances (other than those drawn from the Management Fund) payable to the Executive Officer.

Allocation of
employees of
public Trust
to Temple
Trust.

25. (1) Subject to the provisions of sections 5, 6 and other provisions of this Act, any person who is working on the establishment of the *Devasthan* Management Committee, immediately before the appointed day and is selected by *Devasthan* Management Committee to serve on the establishment of *Shree Karveer Niwasini, Mahalaxmi (Ambabai)* Temple, Kolhapur shall be deemed to have been allocated and appointed as from

the appointed day, for service under the Committee in connection with the affairs of the Trust on the same salary and other terms and conditions of service which were applicable to him immediately before the commencement of this Act and such conditions of service shall not be varied to his disadvantage or such employee shall not be removed from service by the Committee, except with the previous approval of the State Government.

(2) Such selected person shall be the employee of the *Shree Karveer Niwasini, Mahalaxmi (Ambabai) Temple Trust*, Kolhapur re-constituted under sub-section (1) of section 3.

26. Subject to the provisions of this Act and the rules and regulations made thereunder, the Committee may inflict any of the punishment shown below, for breach of trust, incapacity, disobedience of lawful order or neglect of, or wilful absence from duty, disorderly behaviour or conduct derogatory to the discipline or dignity of the Temple Trust or for any other sufficient cause, namely :—

Punishment
by
Committee.

(a) removal, from service ;

(b) recovery, from emoluments or perquisites, of the whole or part of any pecuniary loss caused to Temple by negligence or breach of order or disorderly behavior or conduct ;

(c) any other minor punishment as may be prescribed with the prior approval of the State Government.

27. (1) Every post or vacancy, whether permanent or temporary, amongst the officers and employees of the Temple Trust shall be filled in by the Committee.

Appointment
of officers
and
employees.

(2) No person shall be considered for appointment to any post or vacancy under sub-section (1) on the ground merely, that he is entitled for such appointment according to,—

(i) any scheme framed, agreement entered or judgement, decree or order passed by any court, tribunal or other authority prior to the appointed day ;

(ii) any custom or usage ; or

(iii) the principle that he is next in the line of succession to the last holder of office.

CHAPTER VI

FUNDS OF THE TEMPLE TRUST

28. (1) There shall be constituted a fund to be called by the name of *Shree Karveer Niwasini, Mahalaxmi (Ambabai) Temple Trust Fund* which shall vest in the Temple Trust.

Trust Fund.

(2) The following shall form part of, or be paid into, the said fund,—

(a) all funds vested in the Trust or religious institution, by virtue of the provisions of section 3 ;

(b) all sums received by way of offerings, gifts or donations by the Trust or religious institution or by way of puja charges of any nature whatsoever, or by way of sale proceeds by auction of things received in kind ;

(c) income derived from the movable and immovable properties of the Trust and the proceeds of sale, lease, licence or other transfer or mortgage of any such properties ;

(d) any contributions or grants made to the Temple Trust by Government or by any local authority, Trust or other institution or party or person ;

(e) any sum due to the Temple Trust and recovered by the Committee ;

(f) any sum borrowed by the Committee ;

(g) any fees, fines and penalties, if any, recovered, and all recoveries made by the Committee, under this Act ; and

(h) all other sums including licence fees and lease rent received or collected by the Committee or a member or officer or employee thereof, for or on behalf of the Temple Trust.

(3) All monies and other valuable articles belonging to the Trust Fund shall be deposited or kept in the Nationalized Bank as defined in the Reserve Bank of India Act, 1934 or be invested in "the public securities" as defined in clause (12) of section 2 of the Maharashtra Public Trusts Act, and in accordance with such guidelines as may be issued by the State Government, from time to time.

II of
1934.
XXIX of
1950.

(4) The Trust Fund shall be operated by an office bearer or a member of the Managing Committee and an officer of the Committee as are authorised by the Committee in this behalf in the manner and subject to such conditions as may be prescribed.

Utilization of
Trust Fund.

29. (1) The Trust Fund shall, subject to the provisions of the Income Tax Act, 1961, be utilised or expended by the Committee for all or any of the following purposes, namely :—

43 of
1961.

(a) the maintenance, management and administration of the Temple and of the properties of the Trust ;

(b) training of *sevaks* to perform religious worship and ceremonies in the Temple ;

(c) the conduct and performance of the rituals, worship ceremonies and festivals in the Temple Trust according to the customs and usages ;

(d) providing facilities and amenities to the devotees for darshan of the deity and for offering prayers or performing any religious service or ceremony in the Temple Trust ;

(e) to provide meals to the devotees and to run *Annachhatra* ;

(f) for propagating the teachings of the deity, or religious tenets in any Hindu religious Institution ;

(g) repayment of any sum borrowed by the Committee ;

(h) any sum required to satisfy any judgement, decree or award of any court, tribunal or any authority ;

(i) the payment of any taxes, rent, compensation, charges and other sum payable by the Temple Trust under any law for the time being in force ;

(j) subject to the provisions of clause (l) of sub-section (1) of section 18, for the development of the properties of the Temple Trust ; or for acquisition of movable or immovable properties ;

(k) construction and maintenance of rest houses, *Dharmashalas* or dormitories for the accommodation and use of the devotees ; and

(l) for fulfilling the duties and powers specified in section 18.

(2) After making adequate provision for the purposes referred to in sub-section (1), if there is a surplus in the Trust Fund, a portion of the surplus, being not more than thirty per cent of the distributable income of the Trust, may be utilized and expended, from time to time, by the Committee, for the maintenance and to carry out the expenses of the *Devasthan* Management Committee.

30. (1) There shall be constituted a separate fund to be called the Management Fund which shall vest in, and be under the control of, the Committee. Management Fund and its utilization.

(2) Having regard to the balance, if any, available in the Management Fund, there shall be placed to the credit of this Fund, every year, such sum, not exceeding twenty per cent of the gross annual income of the Trust in the last preceding year, as may be fixed by the Committee, with the approval of the State Government. The State Government may, at any time, if found necessary, direct any additional sum to be credited to this Fund from the Trust Fund in any year.

(3) The Management Fund shall, subject to any general or special order of the State Government, be applied to —

(a) the payment of travelling and daily allowances to the Chairman, Vice-Chairman and Treasurer and other members of the Committee and the outsider members of the sub-committee constituted under the Act;

(b) the payment of salaries and allowances of the Executive Officer and other officers and employees of the Committee and honorarium to the *sevekaris*;

(c) the payment of any expenses lawfully incurred by the Committee or by any office bearer or member or officer or employee, in the exercise of their powers and performance of their duties and functions under this Act.

(4) The Management Fund shall be operated in same manner as the Trust Fund is operated under sub-section (4) of section 28.

31. The Committee may, install one or more receptacles such as *Hundi* or Cash Box or both at such place or places in the Temple or within the precincts thereof as it may think fit for placing of offerings by the pilgrims and devotees visiting the Temple. Offerings received in cash or kind.

CHAPTER VII

BUDGET, ACCOUNTS AND AUDIT

32. (1) The Executive Officer shall, at least one month before the commencement of each financial year, prepare in the prescribed manner and form a budget estimate of receipts and expenditure of the Temple Trust for the following year, and place it before the Committee which may approve it without modifications or with such modifications as it may deem fit. Executive Officer to submit budget to State Government.

(2) Every such budget shall make adequate provision for,—

(a) the scale of expenditure including any customary expenditure ;

(b) the due discharge of all liabilities binding on the Trust ;

(c) expenditure on religious, educational and charitable purposes including donations to other Trusts or religious institutions or patients consistent with the objects of the Temple Trust or as provided or authorised by or under the provisions of this Act ;

(d) for the encouragement and the spread of religious instructions according to the tenets of the Temple Trust ;

(e) expenditure on construction repairs and renovations of the buildings and preservation and protection of the properties and assets of the Temple Trust ; and

(f) the amount of expenditure that may be incurred by a Committee or the Executive Officer towards the administration of the Temple Trust.

Accounts.

33. (1) The Committee shall keep regular accounts of all receipts and disbursements for each financial year and the accounts shall contain all the particulars as may be prescribed.

(2) Wherever the State Government has reason to believe that,—

(a) the Committee is not keeping regular accounts of all receipts and disbursements as required under sub-section (1); or

(b) the expenditure in relation to a Temple Trust is not being incurred in accordance with the budget ; or

(c) it has become necessary to ascertain the fiscal position of the Temple Trust,

the State Government may direct the Committee,—

(i) to furnish true and audited accounts of the Temple Trust and in relation to such period as may specify ; or

(ii) where the accounts are not annually audited, to get the accounts in relation to such period as it may specify, audited by the Chartered Accountant appointed under sub-section (1) of section 34.

Audit.

34. (1) The accounts shall be audited or cause to be audited every year by the Committee in accordance with the manner provided in rules made in this regard, and such rules shall also include the provisions for appointment of auditor and remuneration which shall be paid to such auditor from the Trust Fund.

(2) Every auditor conducting any audit under this Act, shall have access to the accounts and to all books, vouchers, other documents and records in possession of, or under the control of, the Committee. The Committee and the Executive Officer shall provide to such auditor all facilities for such access.

(3) The auditor shall submit his report to the Committee.

CHAPTER VIII

CONTROL

Power of State Government to give direction, call for report, document, etc.

35. (1) The State Government may, give to the Committee general directions as to the matters of policy to be followed by the Committee in respect of its powers and duties or in the matter of administration of the Temple Trust and any matter ancillary or incidental thereto; and in particular, for any action to be taken for the purpose of maintaining discipline and order during the festivals in, or connected with, the Temple.

(2) The State Government or an officer authorised by the State Government in that behalf may, *suo moto* or on an application made to it by any person having interest in the Temple, call for such information, accounts, report or other documents or copies or extracts therefrom, relating to the Temple Trust as considered necessary to satisfy itself or himself that the Temple Trust is being properly maintained and administered, and whether the Trust Fund is being duly appropriated to the purposes for which it is constituted, and the said Temple Trust shall, on such requisition, furnish forthwith the information, accounts, report or other documents or copies or extracts therefrom, to the State Government, or as the case may be, to such authorised officer.

36. The State Government may, depute any officer not below the rank of Deputy Secretary wherever considered necessary, to inspect any movable or immovable property, records, correspondence, plans, accounts and other documents relating to the Temple; and thereupon the Committee, its officers and employees shall be bound to afford all facilities to such officers for inspection.

Inspection by Government.

37. (1) If, in the opinion of the State Government, the execution of any resolution, decision or order of the Committee or that the doing of any act which is about to be done or is being done by or on behalf of the Committee in contravention of or in excess of the powers conferred by or under this Act or any other law for the time being in force, or is likely to lead to abuse or misuse of, or to cause waste of the Trust Fund or Management Fund, or is likely to cause injury or annoyance to the public or is against public interest, or is likely to lead to a breach of the peace or is unlawful, it may, by order in writing, suspend or cancel, the execution of such resolution or order or prohibit the doing of any such act for such period as it may specify therein. When the State Government makes any order, it shall forthwith forward to such Committee a copy of the order, indicating therein the reasons for making it.

Power of State Government to suspend or rescind any resolution or order, etc. of Committee, in certain cases.

(2) Within thirty days from the date of the receipt of such order, the Committee may, if it thinks fit make representation to the State Government, in writing indicating therein, why the order of the State Government should be rescinded, revised or modified. If no such representation is received by the State Government within the prescribed time, it shall presume that the Committee has no objection if the order of the Government is confirmed :

Provided that, the State Government shall before making such order take into consideration the representation of the Committee, if received before such an order is made.

(3) On receipt of such representation from the Committee, the State Government may, within a period of six months from the date of receipt of such representation, rescind the order or may revise or modify or confirm the order or direct that the order shall continue to be in force with or without modification.

(4) In a case where the record of any proceeding or decision or order of the Committee is called for by the State Government under sub-section (1), it may stay the execution of any such decision or order pending the exercise of its power under sub-section (1).

Public
Officers to
furnish copies
or extracts
from certain
documents.

38. All public officers having custody of any record, register, report or other documents relating to the Temple Trust or to any movable or immovable property thereof shall furnish such copies of, or extracts from, the same as may be required by the Committee or by the Executive Officer.

Dissolution
and
supersession of
Committee.

39. (1) If, the State Government is of the opinion that the Committee appointed under this Act is not competent to perform, or makes persistent default in performing the duties imposed on it by or under this Act or any other law for the time being in force or the rules made thereunder, or fails in complying with the lawful directions, including those arising out of audit of accounts of the Temple Trust or out of inspection of its office, the property or work thereof, or exceeds or abuses its powers, or if it is necessary or expedient for any other reason whatsoever which may be considered sufficient by the State Government, it may, after due inquiry, by notification in the *Official Gazette*, curtail the term of office bearers and members of the Committee and dissolve the Committee and constitute another Committee within a period of six months from the date of dissolution ; or supersede the Committee by a like notification for such period not exceeding six months, as the State Government may deem fit, and communicate to the Committee in writing, the ground on which it is dissolved or superseded.

(2) Where the Committee is dissolved or superseded under sub-section (1), the State Government shall appoint for a specified period, a person to be an Administrator from amongst the persons in the service of the State Government or from the persons who have retired from such service (such person not being below the rank of a Collector) to exercise the powers and to perform the functions of the Committee under this Act, until the constitution of another Committee or till the expiry of the period of supersession, as the case may be.

(3) The State Government may, by order issued in that behalf, fix remuneration and other conditions of service of the Administrator appointed under sub-section (2). His remuneration and allowances shall be paid from the Management Fund.

CHAPTER IX

OFFENCES AND PENALTIES

Offences.

40. Whoever, —

(a) whose duty is to perform the rituals of the Trust or puja or *archana* of the deity, fails or refuses to perform such duties or having reason to believe that non - performance of the duties would cause the delay in the performance of rituals or puja or *archana* or inconvenience and harassment to the public or any section thereof entitled to worship in the Temple and wilfully disobeys or fails to comply with lawful orders of the Committee directing him to perform his duties without prejudice to the results of a proper adjudication of such claims or disputes, such person; or

(b) unauthorisely performs any rituals, *archana* to any deity as a *sevekari* within the premises of the Temple Trust ; or

(c) voluntarily causes obstruction by use of force or otherwise to any *sevekari* in the due performance of his duties ; or

(d) wilfully does any act whereby the “*bhog*”, idol, deity or any place of worship in the Temple Trust is deified ; or

(e) unauthorisedly exhibits any “*thali*” or other receptacle or solicits in such manner as might reasonably induce any person to place any offering whether in cash or in kind, in such “*thali*” or other receptacle or solicits money in any other manner whatsoever ; or

(f) not being authorised by the Committee or the Executive Officer, interferes with the movements of person or with any regulatory measures therefor within the premises of the Temple Trust ; or

(g) forcibly enters into any place within the Temple Trust when such entrance is prohibited under any law or custom or under any lawful order passed by the Committee or the Executive Officer ; or

(h) takes inside the premises of the Temple Trust any article knowing that the taking of such article is prohibited under any law or custom or by any declaration made and published in the prescribed manner by the Committee with due regard to the prevailing custom, public health, morality or the religious sentiment of the public ; or

(i) refuses or wilfully fails to furnish any reports, statements, accounts or other information called for under this Act ; or

(j) contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act or of any rules made thereunder other than those for which penalty has been specifically provided under this Act,

shall, without prejudice to any other action taken against him under any other provisions of this Act, on conviction, be punishable with imprisonment which may extend to one month and with fine which may extend to ten thousand rupees.

41. Any person who, —

(a) having in possession, custody or control of any property, document or books of accounts belonging to the Temple Trust , the management and control of which has been regulated under the provisions of this Act or the rules framed thereunder, wrongfully withholds such property or documents or books of accounts from the Temple Trust or any other person duly authorised by the Government or the Committee to inspect or call for the same ; or

Penalty for wrongful withholding of property belonging to Temple Trust.

(b) wrongfully obtains possession of, or retains any property, document or books of accounts of Temple Trust or wilfully withholds or fails to furnish or to deliver to the Committee or any other person authorised by it in this behalf ; or

(c) wrongfully removes, destroys or mutilates property, documents or books of accounts of the Temple Trust,

shall, on conviction, be punishable with imprisonment for a term which may extend to one year, and with fine, which may extend to ten thousand rupees.

CHAPTER X

PREPARATION AND MAINTENANCE OF
REGISTERS BY THE TRUST

- Preparation and maintenance of registers by Temple Trust.
- 42.** (1) For the Temple Trust, there shall be prepared and maintained, in such form and manner as may be prescribed, a register showing,—
- (a) the origin and history of the Temple Trust, and the names of the past Committee members including the present;
 - (b) particulars of the scheme of administration, if any, and of the scale of expenditure ;
 - (c) the name of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case ;
 - (d) the money, jewels, gold, silver, precious stones, vessels, utensils, articles and other movable properties of the Temple Trust with their weights, details of the constituent elements and estimated value thereof ;
 - (e) particulars of immovable properties and all other endowments of the Temple Trust and all title deeds and other documents ;
 - (f) detailed particulars of constituent elements of and coloured photographs of the idols and other images in or connected with the Temple Trust whether intended for worship or for being carried in procession ; and
 - (g) particulars of ancient or historical records with their contents in brief.
- (2) The register shall be prepared, signed and verified by a member of the Committee so authorised by it or by the Executive Officer of the Committee.

CHAPTER XII

MISCELLANEOUS

- Suits and other proceedings by or against Trust or Committee.
- 43.** In all suits and other legal proceedings by or against the Temple Trust or the Committee, the pleadings shall be signed and verified by the Executive Officer and all processes in such suits and proceedings shall be issued to, or served on, the Executive Officer.
- Continuance of legal proceedings by or against erstwhile public Trust and construction of references to that Trust.
- 44.** (1) Where the erstwhile Temple Trust or any Trustees or Committee thereof was, immediately before the appointed day, a party to any legal proceedings with respect to any property, rights, liabilities or obligations since vested in the reconstituted Temple Trust under section 3, by the name of the erstwhile public Trust, the said reconstituted Temple Trust or its Committee, shall be deemed to have been substituted for the erstwhile public Trust or its Trustees or Committee, as a party to those proceedings, or added to as a party thereto, as the case may be, and the proceedings shall continue accordingly.
- (2) Any reference to the erstwhile public Temple Trust or its Trustees or Committee in any law for the time being in force or in any rule, regulations, notification or order issued thereunder, or in any instrument

or other document shall, on and after the appointed day, or the date of commencement of this Act, as the case may be, unless the context otherwise requires, be construed as a reference to the Trust , reconstituted under section 3 or its Committee, as the case may be.

45. (1) The Committee shall cause to be prepared an annual report, Annual report including the administration report of the Temple Trust and Auditor's of report for each financial year ending on the 31st March, showing therein Committee. the financial status and the details of income and expenditure of the Temple Trust with a detailed list together with the relevant information of donee institutions (with full address), and submit such report, list and information to the State Government not later than the 30th June of that year.

(2) A copy of the report received under sub-section (1) shall be laid , by the State Government, as soon as may be, after it is received, before each House of the State Legislature, and a copy of the report or any extracts thereof shall be furnished by the Trust to any person demanding the same, on payment of such reasonable fees or charges as determined by the Committee.

46. The members, the Executive Officer and all the officers and Members of employees of the Temple Trust shall be deemed to be a public servant within Committee and officers and 45 of the meaning of section 21 of the Indian Penal Code and of clause (c) of section and 1860. 2 of the Prevention of Corruption Act, 1988. employees of Trust to be public servants. 49 of 1988.

47. No suit, prosecution or other legal proceeding shall lie against the State Government, or its servant, the Committee or any member, officer or employee of the Committee, for anything which is done in good faith or intended to be done under this Act or the rules and regulations made thereunder. Protection of action taken in good faith.

48. The provisions of this Act shall have effect, notwithstanding anything contained in the Maharashtra Public Trusts Act or any other law for the time being in force, or in any scheme of management framed thereunder before the appointed day or in any judgement, decree or order of any court, tribunal, Charity Commissioner or other Competent Authority or in any custom, usage or instrument. Act to override other laws, etc. XXIX of 1950.

49. (1) Notwithstanding anything contained in the Maharashtra Rent Provisions of the said Act shall not apply to any tenancy created in respect of the property of the Temple Trust as reconstituted under the Maharashtra Rent Control Act, 1999 not to apply. Mah. XVIII of 2000. this Act or to any accommodation provided by Temple Trust .

(2) For the removal of doubt it is hereby declared that any suit or proceeding instituted by a tenant in respect of any building or part thereof owned by tempel Trust to which the provisions of the Maharashtra Rent Control Act, 1999 shall not apply, pending before any Court or other authority, shall stand abated and all rights and privileges conferred by the said Act or by any other law for the time being in force shall cease and shall become unenforceable. Mah. XVIII of 2000.

(3) Nothing contained in this section shall be deemed to render invalid any suit or proceeding in which a decree or order passed has been executed or satisfied in full before the date of coming into force of this Act.

Resistance or
obstructions
in obtaining
possession of
property of
Temple
Trust.

50. (1) If in obtaining possession of property of the Temple Trust , to which it is entitled under section 3 or otherwise, the Committee or the Executive Officer is resisted or obstructed by any person, the Executive Officer may make an application to the Executive Magistrate having jurisdiction, complaining of such resistance or obstruction, and such Magistrate shall, unless he is satisfied that the resistance or obstruction was occasioned by any person claiming in good faith to be in possession on his own account or by virtue of some right, independent of that of the Temple Trust, make an order that the Committee or the Executive Officer be put into possession of such property. Such order shall, subject to the result of any suit which may be filed to establish the right to the possession of the property, be final.

(2) If any person refuses or fails to comply with the order made under sub-section (1) within thirty days of the date of such order, the Executive Magistrate, may evict that person therefrom and take possession of the property and deliver the same to the Committee or the Executive Officer and for that purpose, use such force as may be necessary.

Power to
make rules.

51. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely :—

(a) the declaration form under clause (b) of sub-section (1) of section 10;

(b) the honorarium, travelling allowance and daily allowance to be paid to each member under sub-section (1) of section 16;

(c) any other minor punishment under clause (c) of section 26;

(d) the conditions and manner of operating accounts by the office bearer or a member of the Committee under sub-section (4) of section 28 ;

(e) the manner and form of budget under sub-section (1) of section 32;

(f) the rules for doing the audit of accounts under sub-section (1) of section 34;

(g) the form of register and manner of its maintenance under sub-section (1) of section 42;

(h) any other matter which is to be, or may be, prescribed under this Act.

(3) Except when rules are made for the first time, rules made under this Act shall be subject to the condition of previous publication :

Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may, after recording the reasons therefor in the notification, dispense with the previous publication, of any rule to be made under this section.

(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses

agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

52. (1) The Committee may make regulations, not inconsistent with this Act or any rules made thereunder, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act. Power to make regulations.

(2) No regulations made by the Committee shall come into force until it has been confirmed, with or without modification, by the State Government or by the Charity Commissioner when so authorised by the State Government in that behalf.

(3) All regulations made under this section shall be published in the *Official Gazette*.

53. (1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty : Removal of difficulties.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

STATEMENT OF OBJECTS AND REASONS

About 3067 temples or endowments created for public, religious or charitable purposes and which are registered or declared to be public trust under the Maharashtra Public Trusts Act (XXIX of 1950), are under the control and management of Western Maharashtra Devasthan Management Committee constituted under section 56D of the said Act and by virtue of the Government Notification, Law and Judiciary Department, dated the 2nd May 1969, are entrusted to the said Committee for management on behalf of the State Government.

The *Karveer Nivasini Mahalaxmi* Temple also known as *Ambabai* Temple, constituted in Kolhapur, is one amongst those 3067 temples. This temple is one of the ancient temples in Western Maharashtra and is visited by lakhs of devotees from all over India.

2. In the precincts of the temple, the donation boxes are kept by the said Committee, wherein the offerings made by the devotees are collected. The proceeds of those donation boxes are utilized by the said Committee towards maintenance of the temple and other religious activities.

The religious ceremonies of the deity known as the *Karveer Nivasini* or *Mahalaxmi* or *Ambabai* in the said temple, are performed by the pujaris, commonly known as *Shripujaks*. The offerings made by the devotees to the deity in the form of money, valuables, clothes, precious metals and stones, etc., at the brass threshold being the offerings from the devotees are taken away by the *Shripujaks* and appropriated by them.

3. It is well settled now that the offerings by the devotees to the deity, being a juristic person under Hindu Law, is the property of the deity. Thus, the offerings by the devotee within the precincts of the Mandir or on the brass threshold, is the property of the deity and should be utilized for the maintenance of the temple, as well as performance of the religious rites and ceremonies and for providing facilities to the devotees or worshippers for darshan of the deity in temples and for performance of pujas and for carrying out religious functions and festivals in relation to the said temple.

In the backdrop of various litigations and counter litigations, regarding offerings made by the devotees to the deity, there is persistent demand from the devotees and the local residents of Kolhapur District to abolish the customary or hereditary rights of *Shripujaks* or their persons performing *nitya* or daily or occasional pujas of the said deity.

4. The issue was also raised in the Monsoon Session, 2017 of the Maharashtra Legislative Assembly and the Government has assured that it will soon bring out a law for the better administration of the temple.

5. The Bombay High Court in the case of Shri Balkrishna Pandharinath Badwe and others Vs. State of Maharashtra and others (Second Appeal No. 46/1985) decided on 13th November 2006, has in relation to the Pandharpur Temples Act, 1973 (Mah. IX of 1974), matters arising that, "it cannot be gainsaid that the same is property of the priestly classes as such and the offerings made to the deity in law, is the property of the deity.". The Bombay High Court in the said case, relied upon the judgments of the Supreme Court in the case of Nathdwara Temple's Case and the case of Kashi Vishwanath Temple's Case.

6. The State Law Commission, in its 15th Report has also recommended the State Government to enact a law *inter alia* providing for abolition of hereditary rights of the person known as *sevekari* class.

7. In this view of the matter, the Government considers it expedient to enact a special law to manage the temple and property of the deity known as Karveer Nivasini or Mahalaxmi or Ambabai, for better administration of the temple. It is also considered expedient to provide for abolition of hereditary rights of the *Shripujaks* and to constitute a distinct committee for administration of the said temple from carving it out of the jurisdiction of the Western Maharashtra Devasthan Management Committee, Kolhapur. It is also considered expedient to provide that on abolition of the hereditary rights of the *Shripujaks, nitya* or daily or occasional pujas of the deity and other ceremonies shall be performed by the persons to be appointed on remuneration by the newly constituted Management Committee and in view of the abolition of the hereditary rights of *Shripujaks*, provisions are made for the determination of compensation by the District Court, Kolhapur, having regard to the relevant factors therefor.

8. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 27th March 2018

DEVENDRA FADNAVIS,

Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 1 (2).—Under this clause, power is taken to the State Government to bring the Act into force on such date, by notification in the *Official Gazette*, as it may appoint.

Clause 8 (2) and (4).—Under this clause, power is taken to the State Government to appoint, by notification in the *Official Gazette*,

(a) under sub-clause (2), a Chairman, Vice-Chairman, Treasurer and not more than eight members to constitute the *Shree Ambabai Temple Management Committee* under sub-clause (1) thereof;

(b) under sub-clause (4), a temporary Committee for the purposes of the Act, consisting of two or more persons until the *Shree Karveer Niwasini Mahalaxmi (Ambabai) Temple Management Committee* is duly constituted under sub-clause (1) thereof.

Clause 10 (1) (b).—Under this clause, power is taken to the State Government to prescribe by rules the form of declaration to be made by the member of the Committee prior to his appointment.

Clause 13.—Under this clause, power is taken to the State Government to curtail, by notification in the *Official Gazette*, the term of office of the Chairman, Vice-Chairman, Treasurer or all or any of the Members of the Committee.

Clause 16 (1).—Under this clause, power is taken to the State Government to prescribe by rules, the rates of honorarium, traveling allowance and daily allowances to the Members of the Committee for attending the meetings of the Committee or for transacting any business connected with the duties as a Chairman or Member thereof.

Clause 26(c).—Under this clause, power is taken to the State Government to prescribe by rules, any other minor punishment other than those mentioned in sub-clauses (a) and (b), which may be inflicted under the said clause 26.

Clause 28(4).—Under this clause, power is taken to the State Government to prescribe by rules, the manner and the conditions for operating the Trust Fund under the said clause 28.

Clause 32(1).—Under this clause, power is taken to the State Government to prescribe by rules, the manner and form of a budget estimate of receipts and expenditure of the Temple Trusts under the said clause 32.

Clause 33(1).—Under this clause, power is taken to the State Government to prescribe by rules the particulars that shall be contained in the regular accounts of all receipts and disbursements for each financial year of the Committee.

Clause 34(1).—Under this clause, power is taken to the State Government to prescribe by rules the manner of conducting the audit of the Committee and the provisions for appointment of auditor and remuneration to be paid to the Auditor.

Clause 39(1) and (2).—Under this clause, power is taken to the State Government to curtail the term of office bearers and Members of the Committee and to dissolve the Committee, after due enquiry, by notification in the *Official Gazette*, on the grounds mentioned therein and to constitute another Committee within a period of six months from the date of dissolution for the period specified in such notification.

Clause 42(1).—Under this clause, power is taken to the State Government to prescribe by rules the form and the manner in which the Temple Trust shall prepare and maintain the register under this clause.

Clause 51.—Under this clause, power is taken to the State Government to make the rules, by notification in the *Official Gazette*, subject to the condition of previous publication, to carry out the purposes of the Act.

Clause 52.—Under this clause, power is taken to the Committee to make regulations, with prior approval of the State Government and not inconsistent with provisions of the Act and the rules made thereunder, for the purpose of carrying out its duties and functions.

Clause 53.—Under this clause, power is taken to the State Government to remove, by an order published in the *Official Gazette*, any difficulty which may arise in giving effect to the provisions of the Act, within a period of two years from the date of commencement of the Act.

2. The above-mentioned proposals for delegation of legislative power are of normal character.